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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,005	02/02/2007	Vicente Gomez Amor	076283.0011	1789
23630	7590	05/12/2010	EXAMINER	
McDermott Will & Emery 600 13th Street, NW Washington, DC 20005-3096			MATNEY, BROOKE MARIE	
			ART UNIT	PAPER NUMBER
			3763	
			NOTIFICATION DATE	DELIVERY MODE
			05/12/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mweipdocket@mwe.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,005	<b>Applicant(s)</b> GOMEZ AMOR, VICENTE	
	<b>Examiner</b> Brooke M. Matney	<b>Art Unit</b> 3763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/28/2010 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by *Fink* [US Patent No. 4,219,021].

As to claim 1, *Fink* discloses a three-way stopcock for medical use which comprises a primary arm (tube 28, Fig. 1, and flexible tubing, col. 3, ll. 44-50) and two secondary arms (tubes 26 and 30, Fig. 1, and respective flexible tubing, col. 3, ll. 44-50) meeting at a body (12, Fig. 1), wherein the primary and secondary arms are configured and arranged to receive an intravenous catheter and two supply catheters, respectively; and a plug (valve core 14, Fig. 7) disposed within the body, wherein the plug is configured and arranged for being externally

Art Unit: 3763

activated by a handle (16, Fig. 1); wherein the principle arm and the secondary arms can be brought to selectively communicate with each other or be disconnected (col. 4, ll. 3-6), and wherein the two secondary arms protrude diametrically opposite from the body, wherein the tangent of both arms nearest the body is perpendicular to the principal arm (col. 3, ll. 57-60), wherein each secondary arm has (i) a proximal segment adjacent to the body that is curved and flexible (part of flexible tubing that is closest to the body, col. 3, ll. 44-50), and (ii) a distal segment (part of flexible tubing that is farthest from the body, col. 3, ll. 44-50) integral with the respective proximal segment and having an end (Fig. 14 shows valve 10 with arms 156, 156', and 70 having ends 152, 152', and valve 10', Fig. 14) with means for coupling to a corresponding catheter (150, 150', and 80, respectively), wherein the two distal segments can be configured essentially parallel to each other and the primary arm, wherein the two proximal segments can be oriented in a direction perpendicular to the principal arm (Fig. 14). *Fink* teaches that the valve tubes are each connected to a flexible length of tubing (inlet tube 34, inlet tube 38, and outlet tube 42, Fig. 1). *Fink* also teaches that the flexible length of tubing can therefore be bent in a way so that the inlet tubes curve away from the body and then become aligned parallel to each other. Also, *Fink* does not disclose any differences between the primary arm and the secondary arms' connection to the body. Therefore, the primary arm and the secondary arms could be oriented with the principal channel between the secondary arms. The claim language only requires that the two distal segments

Art Unit: 3763

**can be configured** essentially parallel to each other and the primary arm and that the two proximal segments **can be oriented** in a direction perpendicular to the principal arm. The claim does not require the distal segments and proximal segments to always be oriented this way.

As to claim 2, *Fink* further discloses wherein the three-way stopcock is characterized in that the secondary arms are made of medical grade polymer (col. 1, ll. 19-23). *Fink* teaches that the flexible tubes are plastic, which is a polymer. *Fink* also teaches that the flexible tubes will be used with the stopcock for intravenous administration of different medications (abstract), thereby showing the plastic tubing to be of medical grade.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Fink* in view of *Lynn* [US Patent No. 7,033,339 B1].

As to claim 3, *Fink* discloses a three-way stopcock having all claimed elements except for wherein the plug presents in its interior inner channels an interior configuration in the form of inverted "V", wherein the branches are slightly arched.

*Lynn* discloses wherein the plug presents in its interior inner channels an interior configuration in the form of inverted "V", wherein the branches are slightly arched (Fig. 67, central rotating member 1208).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify *Fink*'s valve core such that it has an interior configuration in the form of an inverted "V" wherein the branches are slightly arched, as taught by *Lynn*, in order to improve fluid flow through the stopcock.

### ***Response to Arguments***

3. Applicant's arguments filed 4/28/2010 have been fully considered but they are not persuasive.

4. Firstly, Applicant argues that the flexible lengths of tubing extending from the body (12, Fig. 1) taught by *Fink* cannot be considered stopcock arms because they are not part of the stopcock. Examiner disagrees, because Examiner is interpreting the assembly of *Fink* including the body and the flexible arms to be a stopcock. The language of claim 1 does not require that the arms are integral with the body, only that the distal segment of the arms are integral with their respective proximal segments.

5. Secondly, Applicant argues that the amendment to claim 1 requiring that the distal segments of the arms are integral with their respective proximal segments and that the ends of the distal segments have means for coupling to a corresponding catheter distinguishes claim 1 from *Fink*. Examiner disagrees. Examiner believes that *Fink* teaches this in Fig. 14, which shows the distal ends of the flexible tubes extending

Art Unit: 3763

from the body coupled to either a valve or a Y-fitting which is then coupled to a catheter (IV tubing).

6. Lastly, Applicant argues that the 35 USC 103 rejection (*Fink* in view of *Lynn*) is improper because *Lynn* is not understood as curing the previously-noted deficiencies of *Fink* relative to amended claim 1. However, since Examiner believes that the rejection of claim 1 under 35 USC 102 is still proper, Examiner also believes the rejection under 35 USC 103 is still proper.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brooke M. Matney whose telephone number is (571)270-1457. The examiner can normally be reached on Monday-Thursday 9AM-7PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (571)272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brooke M Matney/  
Examiner, Art Unit 3763

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art  
Unit 3763